Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Mark DeSaulnier, Chair
Senator Tom Harman
Senator Gloria Negrete McLeod
Senator Roderick Wright

Thursday, May 7, 2009
9:30 a.m.
Room 112

Hearing Outcomes

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Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Items Proposed for Consent / Vote-Only

(See Consolidated Vote-Only Recommendation on page 5.)

0650 Office of Planning and Research

The Office of Planning and Research (OPR) assists the Administration with legislative analysis and planning, policy research, and liaison with local governments, and also oversees programs for small business advocacy, rural policy, and environmental justice. Additionally, the office has responsibilities pertaining to state planning, California Environmental Quality Act (CEQA) assistance, environmental and federal project review procedures, and volunteerism. The California Volunteers program administers the federal AmeriCorps and Citizen Corps programs and works to increase the number of Californians involved with service and volunteerism.

The Governor's Budget provides the OPR with $37.2 million (including $6 million GF) and 109.6 positions. This is an increase of $2.2 million and 9.5 positions, primarily resulting from the proposed transfer of the Office of Gang and Youth Violence Policy from the California Emergency Management Agency (CalEMA) to the OPR.

FL: Technical Budget Adjustment. The Governor requests the OPR budget to be reduced by $1.8 million GF in order to: (1) reverse the transfer of the Office of Gang and Youth Violence Policy (OGYVP) from the CalEMA to the OPR proposed in the Governor's Budget and adopted in the February enacted budget ($1.2 million GF); and (2) correct a technical error in the 2008-09 budget which was inadvertently carried over into the 2009-10 budget ($0.6 million GF). The proposal also includes: (1) a reversion item to capture current year GF savings of $521,000 related to excess authority created by the technical error; and (2) deletion of two OPR budget items that are unneeded with the decision to leave OGYVP at CalEMA.

0840 State Controller

The State Controller is the Chief Financial Officer of the state. The primary functions of the State Controller's Office (SCO) are to provide sound fiscal control over both receipts and disbursements of public funds; to report periodically on the financial operations and condition of both state and local government; to make certain that money due the state is collected through fair, equitable, and effective tax administration; to provide fiscal guidance to local governments; to serve as a member of numerous policy-making state boards and commissions; and to administer the Unclaimed Property and Property Tax Postponement Programs.

The Governor's Budget provides the SCO with 1,452.5 authorized positions and $166 million (including $56.6 million GF). This is an increase of 35.8 positions, but a decrease of $12.4 million (including $1 million GF).

FL: Unclaimed Property Systems Replacement Project. The Governor requests the SCO's budget be reduced by $224,000 (Unclaimed Property Fund—UPF) and 2.6

positions in 2009-10 and an additional $140,000 (UPF) and 2.3 positions in 2010-11, consistent with adjustments to the most recent Special Project Report (SPR).

Staff Comments. The previous SPR anticipated 2009-10 project savings that were $668,400 (and 8.6 positions) greater than those the Governor proposes to "score" with this requested reduction. However, the enactment of Chapter 179, Statutes of 2008 (the General Government trailer bill to the Budget Act of 2008) placed new requirements on the Unclaimed Property System, and this request reflects those additional costs (i.e., unachievable savings).

1880 State Personnel Board

The State Personnel Board (SPB) is responsible for California's civil service system. The SPB provides a variety of recruitment, selection, classification, goal setting, training and consultation services to State departments and local agencies. The Board is composed of five members, who are appointed by the Governor, and serve 10-year terms.

The Governor proposes expenditures of $26.6 million ($3.1 million GF) and 180.5 positions – an increase of $1.2 million (all GF due to a previous technical error in the amount of costs recovered from other funds) and a decrease of one position. The non-General Fund expenditures of the Board are supported by reimbursements for services provided to other State departments.

FL-1: Court-Ordered Medical Quality Hearings. The Governor requests two positions and $507,000 (reimbursement authority) to establish a court-ordered concurrent medical quality and disciplinary hearing unit for physicians employed by the California Department of Corrections and Rehabilitation (CDCR).

Staff Comments. According to the Administration, the CDCR would pay all costs to establish this new medical quality hearing unit, which would include: (1) a full-time Administrative Law Judge and Legal Secretary; (2) a $75,000 contract with the Institute for Medical Quality, a non-profit corporation specializing in providing peer review services for the medical industry; and (3) $205,000 to pay medical panelists for their time (at approximately $200 per hour during the selection process and $1,500 per day during throughout the hearing). These estimates assume three, six-day hearings per year, with five panel members interviewed, and three selected.

8380 Department of Personnel Administration

The Department of Personnel Administration (DPA) represents the Governor as the "employer" in all matters concerning State employer-employee relations. The Department is responsible for all issues related to salaries, benefits, position classification, and training. For rank and file employees, these matters are determined through the collective bargaining process and for excluded employees, through a meet and confer process.

The Governor proposes expenditures of $106.6 million ($37.8 million General Fund) and 247 positions for DPA – an increase of $6.2 million and 21 positions. Two significant adjustments are a $1.9 million General Fund reduction (and position cut of 11.0 positions) to help address the General Fund deficit, and a $3.0 million General Fund augmentation (and the addition of 28.5 positions) to process layoffs that are part of the Governor's proposal (primarily in the Department of Corrections and Rehabilitation).

FL: 21st Century Project. The DPA requests 6.0 limited-term positions and $518,000 (reimbursement authority) to continue as an active participant of the 21st Century Project—a project being undertaken by the SCO to create an integrated human resource management system to replace the existing payroll, employment history, position management, and leave accounting systems.

Staff Comments. The Governor's request is consistent with adjustments made in the SCO's budget during the fall budget process; however, the project has undergone significant changes in the intervening months (including the firing of the system integrator—Bearing Point). For this reason the Legislature anticipates an updated project plan and budget proposal in the May Revise. As such, the Subcommittee may wish to go ahead and approve this request—even though it does not reflect a "final number"—as a way to acknowledge that the DPA budget will simply conform to the final 21st Century project plan approved by the Legislature. In so doing, the Subcommittee would signal its intent that this issue does not need to be heard again as part of the DPA 2009-10 budget.

Consolidated Staff Recommendation on all Vote-Only Items: APPROVE each the four FLs above (including the DPA 21st Century Project item as conforming to the final decision on the main 21st Century Project item within the SCO's budget).

VOTE:

Action: Approved the staff recommendation for all 4 vote-only items on a 3-0 vote (Wright absent).

1760 Department of General Services

The Department of General Services (DGS) provides management review and support services to state departments. The DGS is responsible for the planning, acquisition, design, construction, maintenance, and operation of the state's office space and properties. It is also responsible for the procurement of materials, data processing services, communication, transportation, printing, and security.

The Governor proposes expenditures of $1.3 billion ($6.9 million GF) and 4,103.3 positions – an increase of $41.8 million (including a decrease of $3.2 million GF) and a decrease of 23.5 positions.

VOTE-ONLY ITEMS:

Capital Outlay Projects
1. FL: Remove Unnecessary Special Fund Authority for Capital Outlay Project De-Funded in the February Enacted Budget. The Governor requests a reduction of $3 million (special fund) for the California Department of Corrections and Rehabilitation (CDCR), California Institute for Women at Frontera, Corona: Walker Clinic and Infirmary, Structural Retrofit-Construction project. The project cannot be completed without the GF portion of the project funding, which was deleted from the 2009-10 budget in February 2009.

2. FL: Reappropriate Library and Courts Building Renovation and CDCR Hospital Building Structural Retrofit Funding. The Governor requests a reappropriation item to be added to the 2009-10 budget so that the unencumbered balances of the existing appropriations for the Library and Courts Building renovation project ($59.6 million) and the structural retrofit of the Hospital Building at Deuel Vocational Institution in Tracy ($3.7 million) can be expended. These projects were delayed when the state's cash crisis required suspension of disbursements from the Pooled Money Investment Account. The requested reappropriations would enable the projects to move forward again once the current budget crisis is resolved.

Staff Recommendation: APPROVE the two capital outlay requests listed above.

VOTE:

Action: Approved the staff recommendation for both vote-only items on a 3-0 vote (Wright absent).

DISCUSSION ITEM:

1. Energy Efficiency Retrofits at DGS Facilities. The Governor requests $5 million (DGS Revolving Fund) to implement energy efficiency retrofit projects at twelve of its facilities. The retrofit projects would include upgrading lighting systems, tuning up air handling equipment, and improving building control systems. The projects would ultimately be paid out of various state funds through the rental rates DGS charges its tenants.

2009-10 Enacted Budget. This request was "withheld without prejudice" from the February enacted budget.

Staff Comments. Due to their age, most DGS-owned buildings operate out-of-date and inefficient systems that are difficult to maintain. Given that a building's heating, ventilation, and air conditioning (HVAC) system, for example, can account for as much as 65 percent of overall energy usage, even a modest improvement to the system can result in significant energy savings. Therefore, in an effort to improve building performance and reduce state energy and maintenance expenditures, the DGS has been working with investor-owned utilities (IOUs) to determine which buildings in its portfolio would benefit most from improvements (retrofits) to their existing systems. The IOUs have helped complete energy audits, preliminary assessments, and data analyses, and the DGS has identified the retrofits to the twelve facilities contained in this request as those providing the state with the biggest "bang for the buck" in terms of payback on investment.

According to the DGS, the proposed retrofits would achieve approximately $1.3 million in annual savings, which equates to an overall payback period of about five years on the initial $5 million investment. These savings do not include rebates and other incentives that may be available through the IOUs for the implementation of energy efficiency measures. The DGS indicates that rebates could take the form of future reductions in utility rates, or one-time cash payments. If the latter, the cash could be used to offset future rental rate increases for DGS-building tenants, or as seed money to fund additional rounds of retrofits (as is the DGS preference).

Staff notes that, although this request is for special fund authority, the $5 million cost of this proposal is assumed in the rental rates DGS charges its state tenants, and is implicitly accounted for in the inflation adjustment (or "price increase") built into the appropriation levels reflected in the February 2009 enacted budget. Therefore, this BCP is not without cost, particularly since approximately 75 percent of the building rents supporting this expenditure are paid out of the GF. With statewide GF revenues for April coming in approximately $2 billion below estimates, the Committee may wish to strongly consider whether the five-year payback period on these projects is sufficient to justify the added GF expenditure given the looming fiscal crisis facing the state. Should the Committee opt to deny the proposal, it would not necessarily be practical to "score" savings (by reducing each affected department's appropriation); however, given the likelihood of future unallocated reductions, department's would have more flexibility in taking any future cuts without adversely impacting service levels.

If the Committee should choose to approve the proposal, staff strongly recommends reporting language to: (1) track the efficacy of the projects; (2) notify the Legislature of any rebates; and (3) provide the Legislature oversight of any future retrofit projects (including, potentially, a comprehensive programmatic plan).

Staff Recommendation: NO ACTION. The Committee should await further detail concerning the state's fiscal outlook before committing additional GF resources.

No Action.

8940 Military Department

The California Military Department (CMD) is responsible for the command, leadership, and management of the California Army and Air National Guard and five other related programs. The purpose of the California National Guard (CNG) is to provide military service supporting this state and the nation. The three missions of the CNG are to: (1) supply mission ready forces to the federal government as directed by the President; (2) provide emergency public safety support to civil authorities as directed by the Governor; and (3) support local communities as directed by proper authorities. The CMD is organized in accordance with federal Departments of the Army and Air Force staffing patterns. In addition to the funding that flows through the State Treasury, the CMD also receives Federal Funding directly from the Department of Defense.

The Governor proposes expenditures of $143.5 million ($44.7 million GF) and 872.5 positions – an increase of $11.1 million ($4.1 million GF) and 25 positions.

DISCUSSION ITEMS:

1. BCP-1: National Guard Education Benefit Program. The Governor requests 2.0 positions and $1.8 million GF for the half-year costs to establish a California National Guard (CNG) Education Benefit Program. The full-year implementation of the program would cost $3.7 million beginning in fiscal year 2010-11.

2009-10 Enacted Budget. This request was “withheld without prejudice” from the February enacted budget.

Staff Comments. According to the CMD, an education benefit program would strengthen the CNG by promoting the pursuit of higher education among its membership and thereby increasing the capability of the CNG to support California when needed. The CMD indicates that California is one of the only states in the country that does not provide an educational benefit to members of its National Guard. The CMD believes the lack of an education benefit to its members makes the CNG less competitive with other states in the recruitment and retention of members.

Staff notes that the Governor has requested an education benefit program for the CNG each of the last two years and the request has been denied by the Legislature each time. Two years ago, this Subcommittee denied the request without prejudice because the policy (of providing a non-needs-based education benefit) represented a significant departure from existing policy and had not been vetted by the appropriate policy committee (Senate Education), and because the trailer bill language submitted with the Governor’s Budget was unworkable as proposed. Last year, the Governor submitted a funding request in the budget, and the CMD sponsored a bill (SB 1752, Wyland) in order to have the policy approved through the proper policy committee. SB 1752 was ultimately approved, with amendments, by the Senate Education Committee; however, it died in Appropriations. Meanwhile, this Subcommittee denied the Governor’s funding request based on the rationale that: (1) the Senate does not fund bills (rather, policy bills lacking appropriations are funded only after they become law); and (2) the request did not meet the Subcommittee’s minimum threshold for approval given the state’s fiscal crisis—it would not produce off-setting savings and it did not share an immediate nexus with issues of health and safety.

This year, the Governor has again submitted a funding request with trailer bill language and the CMD is pursuing a separate policy bill—SB 815 (Cogdill)—to implement the education benefit program. Nearly identical to SB 1752, SB 815 recently passed out of the Senate Education Committee and is assigned to be heard in Senate Appropriations. The bill would establish an education benefit program with the following characteristics:

- To qualify, a CNG member must: (1) be a California resident and an active member with two years of service in the CNG, State Military Reserve, or the Naval Militia; (2) have been accepted or registered at, or enrolled in, a qualifying institution (including a University of California—UC, California State University—CSU, or California Community College—CCC); and (3) agree to use the benefit to obtain a certificate, degree, or diploma that he or she does not already hold, and maintain a 2.0 grade point average or higher.
- The Adjutant General would review the program applications, prioritize those applicants who qualify for an award and who possess the skills most needed by the CNG, and certify the eligibility of the qualifying members to the Student Aid Commission (SAC).
- The SAC would be responsible for issuing the program awards which would not exceed the maximum award for a Cal Grant A award, or the cost of attendance at the qualifying institution.
- The SAC would adopt rules and regulations, in consultation with the CMD, to administer the program, including provisions that establish the priorities for allocating available money to applicants.

The bill would also require: (1) the CMD to annually report to the Legislature regarding program participation; (2) the LAO to report after five years on the program, and include recommendations for modifying or extending it; and (3) a $3,651,000 appropriation to make the enacting statutory language operative.

Similar to last year, and consistent with past practice in the Senate, the Subcommittee may wish to allow the proposed policy change to finish winding its way through the normal bill process before considering the program for permanent funding. And, in the event the program is ultimately enacted, the Subcommittee should again seriously consider whether the program is a budget year funding priority given the fiscal crisis facing the state, and the lack of an immediate benefit to the GF (either through additional revenue or offsetting savings) or health and safety.

Staff Recommendation: NO ACTION.

No Action.

2. BCP-2: Service Member Care Team. The Governor requests eight positions and $1 million GF to support the mental health needs of CNG members and their families. The four mental health providers and four Chaplains requested would provide voluntary, part-time support, including mental health prevention services, training, intervention, and reintegration assistance during pre- and post-mobilization activities, training events, and casualty notification missions.

2009-10 Enacted Budget. This request was "withheld without prejudice" from the February enacted budget.

Staff Comments. Since September 11, 2001, CNG members have responded to deployments within California (e.g., wildfires), other states (e.g., Louisiana for Hurricane Katrina), and overseas (including the combat zones of Iraq and Afghanistan). With the significant increase in the demands placed on CNG members, and particularly in the face of the two "signature injuries" of the current overseas conflicts—Post-Traumatic Stress Disorder and Traumatic Brain Injury (TBI)—the need for mental health services within the CNG community has grown. According to the CMD, its 25,000 personnel have participated in a total of 25,549 deployment iterations since 2001, with 25 members paying the ultimate sacrifice. Recently, the CNG lost four service members and one dependent family member to suicide over a six-month period. Meanwhile, the Department of Defense (DOD) Mental Health Task Force report of June 2007 found that 38 percent of all soldiers report psychological symptoms following a combat deployment, and among members of the National Guard, the figure rises to 49 percent.

The CMD notes that the current CNG force structure includes only one permanent mental health professional responsible for mental health training, intervention and referral for the largest authorized guard force in the country. This position was approved by the Legislature as requested by the CMD in the 2007-08 budget year in order to provide a full-time mental health care capability for all CNG members by coordinating the efforts of 38 civilian mental health professionals provided to the CNG by DOD under the Tri-West pilot program. Although spread across 104 state armories and eight air stations, according to CMD staff, the Tri-West program has been largely effective in helping to "de-mystify" mental health issues and services for members. Prior to mobilization members receive training on suicide prevention and TBI, as well as a "battle mind" course designed to prepare them for the emotional and psychological rigors of deployment to a war zone. While the CMD has prevailed upon the DOD to extend the Tri-West program through 2010 (due to concerns regarding the lack of a viable alternative), the CMD indicates it would much prefer to maintain its own, military, mental health capability in order to better manage mental health issues related to military regulations, particularly where a member's career may be on the line (or where career concerns might otherwise prevent a member from seeking service).

LAO Comments. In its 2009-10 Budget Analysis, the LAO recommended the Legislature reject the proposal to fund these positions with GF, and instead suggested that the Administration explore the use of funds from Proposition 63 (Prop 63), the Mental Health Services Act. According to the LAO, it appears that the positions proposed would engage in activities consistent with Prop 63 and the historic uses of its funding. Currently, over 14 different state departments use Prop 63 funds for administrative activities such as providing training and coordination of mental health services. For example, the Department of Veterans Affairs funded two staff at a cost of $496,000 in 2007-08 to support the development of a statewide veteran mental health referral network at the county level for all entities that may become access points for veterans and their families seeking mental health assistance. Funding for state administrative costs cannot exceed 5 percent of the total annual funds available from Prop 63; however, there is currently $24 million available to fund additional state administrative activities.

Department of Mental Health Response to LAO Recommendation. In response to the LAO's recommendation, the Administration reports that the Department of Mental Health (DMH) has raised the following concerns with the possibility of utilizing Prop 63 funds for this request:

1) The CMD is proposing direct funding from Prop 63 to provide mental health services to members and families in conflict with the Prop 63 requirement that mental heath services funded under the proposition be delivered by counties under contract with the state;
2) It would appear that few, if any, of the proposed services are to be directed at either of Prop 63's primary target groups (seriously mentally ill adults and seriously emotionally disturbed children, as defined in statute); and
3) While Prop 63 allows up to 5 percent of the annual MHSA revenues to be spent on administrative costs, historically, direct services have not been supported from this funding source.

Additional Staff Comments. Staff notes that the above comments from DMH appear to reflect a very narrow analysis of the CMD's preferred programmatic structure, rather than a more collaborative, problem-solving approach to the challenge of addressing the mental health needs of CNG members. Given that the GF is critically oversubscribed, and the Legislature will soon be faced with trying to close a multi-billion-dollar fiscal gap, a GF solution to the CMD's mental health "problem" appears unlikely, if not totally infeasible. Therefore, the Subcommittee may wish to encourage the DMH to work more creatively with the CMD to develop an alternative program design that utilizes either Prop 63 or some other non-GF source. Additionally, the Subcommittee may wish to recommend that the CMD explore the possibility of prevailing upon the DOD to further extend the Tri-West program in the absence of a state solution.

Staff Recommendation: NO ACTION.

No Action. The Chair requested the Administration to provide staff with additional information regarding ongoing discussions with the Department of Mental Health on the use of Prop 63 funds to address the CNG's needs.

3. Various Capital Outlay Projects (COBCPs 1, 2, and 3). The Governor requests $2.8 million ($1.2 million GF and $1.6 million federal funds—FF) for the following capital outlay projects:

- Statewide Latrine Renovations – $730,000 GF; $1.1 million FF
- Statewide Kitchen Renovations – $334,000 GF; $366,000 FF
- Advanced Plans and Studies – $125,000 GF; $125,000 FF

2009-10 Enacted Budget. This request was "withheld without prejudice" from the February enacted budget.

Staff Comments. Notwithstanding the justification provide by the CMD, in response to the state's ongoing fiscal crisis this Subcommittee deleted funding for similar projects last year due to the lack of a compelling justification (either offsetting GF savings or a direct and immediate impact on health and safety). Staff notes that the Subcommittee may wish to apply the same rationale again when considering the following projects:

- Statewide Latrine Renovations. Many state-owned public facilities operated by the Military Department as armories do not meet the requirements of the Americans with Disabilities Act (ADA) of 1990. Most are over 50 years old and have never been updated. Restrooms are not ADA compliant. Armories are used by the public, which exposes the possibility of litigation to require ADA compliance. Additionally, many armories do not have women's showers.

- Statewide Kitchen Renovations. Many state-owned public facilities operated by the Military Department as armories do not comply with the requirements of California Title 24 and fire code and thus cannot be used for cooking and food preparation. As mentioned above, armories are used by the public for such purposes as wedding receptions, after school programs, voting, emergency shelters, etc.

- Advanced Plans and Studies. According to the CMD, recent experience has shown that the current process it uses to develop the scope and cost of its projects often results in underestimating costs. The department is proposing to conduct design charrettes to confirm project scope and costs.

Staff Recommendation: NO ACTION.

No Action.

8950 Department of Veterans Affairs

The California Department of Veterans Affairs (CDVA) has three primary objectives: (1) to provide comprehensive assistance to veterans and dependents of veterans in obtaining benefits and rights to which they may be entitled under state and federal laws; (2) to afford California veterans the opportunity to become homeowners through loans available to them under the Cal-Vet farm and home loan program; and (3) to provide support for California veterans' homes where eligible veterans may live in a retirement community and where nursing care and hospitalization are provided.

The department operates veterans' homes in Yountville (Napa County), Barstow (San Bernardino County), and Chula Vista (San Diego County). The homes provide medical care, rehabilitation, and residential home services. With $50 million in general obligation bonds available through Proposition 16 (2000), $162 million in lease-revenue bonds (most recently amended by AB 1077 [Chapter 824, Statutes of 2004]), and federal funds, new homes will be constructed in West Los Angeles, Lancaster, Saticoy (Ventura County), Fresno, and Redding.

The Governor proposes expenditures of $393 million ($206.8 million GF) and 2,155.1 positions – an increase of $30.5 million ($29.2 million GF) and 299.5 positions. These increases primarily reflect the planned activation of the new veterans homes.

DISCUSSION ITEMS:

1. BCP-1: GLAVC Veterans Homes Activation Phase III. The Governor requests partial-year resources of 181.6 positions and $18.5 million GF to complete construction, activate business operations, and begin admitting veterans to the Veterans Home of California at Greater Los Angeles/Ventura County (VHC-GLAVC). Beginning in fiscal year 2010-11, the full-year costs of this proposal would be 356.7 positions and $29.3 million GF.

2009-10 Enacted Budget. This request was fully funded in the February enacted budget.

Staff Comments. The GLAVC veterans homes, consisting of a main campus in West Los Angeles (WLA), and satellite homes in Ventura and Lancaster, were envisioned and enabled (along with new homes in Redding and Fresno) by the Veterans Home Bond Act of 2000, AB 2559 (Wesson) of 2002, and AB 1077 (Wesson) of 2004, which made funds available to meet the matching requirement to receive a grant from the United States Department of Veterans Affairs State Home Grant Program—which funds the majority of the project costs (the split is approximately 60 percent federal funds with the remainder consisting of General Obligation and Lease-Revenue Bonds). When fully operational, the GLAVC homes would add approximately 616 total beds to the veterans' home system, with levels-of-care spanning from a new Adult Day Health Care service in Ventura and Lancaster, to a Memory Care Unit in WLA (and including Residential Care for the Elderly (RCFE) at all three homes and a Skilled Nursing Facility (SNF) in WLA in between).

The Legislature approved construction and pre-activation funding for Phase I of GLAVC in the Budget Act of 2007, and ground-breaking for the three new homes took place on schedule in June and July of 2007. Phase II was approved in the Budget Act of 2008, and included additional pre-activation staffing for Ventura and Lancaster—which were scheduled for completion in December 2008, with the first residents to arrive in April—and WLA—which was scheduled to be completed in December 2009, with residents to be admitted beginning in the spring of 2010. Unfortunately, most of these timelines have slipped.

The CDVA's Phase III request, which covers the completion of construction and the pre-activation of WLA as well as the initiation of business operations and admissions to both satellite facilities, acknowledges some of the delays. However, staff notes that the latest DGS Quarterly Status Report for Capital Outlay Projects reflects additional delays of between three and five months at all three locations relative to the timetable assumed in the BCP (opening dates for the Ventura and Lancaster RCFEs are now delayed at least five months and four months, respectively, and WLA construction is at least three months behind. Therefore, the Subcommittee may wish to consider reducing the associated appropriation levels for the affected levels-of-care by 25 percent or more to acknowledge the anticipated budget year savings now and help balance the 2009-10 budget.

Staff Recommendation: REDUCE the requested resources by $5 million GF in recognition of an approximately three-month delay in construction and associated delays in hiring for the RCFE level-of-care at Lancaster and Ventura ($2.3 million), and for the RCFE, SNF, and Memory Care levels-of-care at WLA ($2.7 million).

VOTE:

Action: Approved the staff recommendation on a 3-0 vote (Harman absent). The CDVA noted that the delayed opening of the homes will also result in some erosion in GF revenues.

2. BCP-5: Member Fee Increase (Trailer Bill Language—TBL). The Governor proposes TBL to remove the existing income caps on CDVA member fees for all levels of care. The requested amendments would generate additional revenue of approximately $2.8 million to the GF.

2009-10 Enacted Budget. This request was withheld without prejudice from the February enacted budget.

Staff Comments. CDVA members currently pay for a portion of the costs of their care based on income caps (see Figure 1 on following page) established in existing law. The remaining costs not covered by the federal government are paid by the GF.

Figure 1

	Current		Proposed	
Level-of-Care	**Percentage of Income**	**Cap**	**Percentage of Income**	**Cap**
Domiciliary (DOM)	47.5%	$1,200	47.5%	None
Residential Care for the Elderly (RCFE)*	47.5%*	$1,200*	55%	None
Intermediate Care Facility (ICF)	65%	$2,300	65%	None
Skilled Nursing Facility (SNF)	70%	$2,500	70%	None

*There is no separate fee for the RCFE level-of-care; RCFE residents currently pay the same fee as DOM.

Staff notes that the current fee schedule above was set in 1994, and, while the cost of care has steadily increased since 1994, the only change in member fees was in 2001 when the DOM fee was reduced from 55 to 47.5 percent.

According to the CDVA, the following proposed changes to member fees (also displayed above) would make fees more equitable based upon the level of care and services provided:

- **Remove income caps for all levels of care**. The current structure caps the amount that each member pays. The caps, however, lead to inequities in that poorer residents pay a higher percentage of their total income. This change would impact approximately 17 percent of residents.

- **Add a separate fee structure for the RCFE level of care** in which the income contribution percentage is set to 55 percent. The RCFE is a higher level of care than DOM. Members living in RCFE are provided more services than DOM residents and fewer services than ICF residents. Therefore, the CDVA's proposed fee for RCFE residents is in accordance with the concept of increasing participation rates as members receive higher levels of care.

Additionally, the CDVA proposes the following with regard to non-veteran spouses:

- **Require non-veteran spouses to pay fees** based on the federal monthly per diem for a veteran, not to exceed 90 percent of total income. Currently, non-veteran spouses pay the same member fees as veterans but they are not eligible for common reimbursement streams such as Federal Per Diem or Aid and Attendance. This increases the cost that the state must absorb to provide care to non-veteran members. For example, by being ineligible for federal per diem, the state does not receive approximately $1,032 per month in federal funds at the DOM level and $2,233 per month at the ICF, SNF, and acute levels of care.

Staff notes that, while there is merit in re-thinking the current fee structure for members of California's veterans homes, the Subcommittee may wish to consider whether the incidence of the proposed changes would trigger unanticipated consequences (such as members leaving the homes because their fees increase too dramatically), or create an undue burden for members on a fixed income who based their decision to live at the homes on the rates set in current statute.

Should the Subcommittee like to consider other options, staff requested, and the CDVA has provided, the menu of fee choices contained in Appendix A. Staff notes that while each of the options features various pros and cons, none generates comparable GF revenue. Therefore, in weighing these options, and in light of a gaping GF shortfall confronting the state, the Subcommittee may wish to consider whether any of the options, while potentially more palatable to existing members, is sustainable even in the short-run (to say nothing of the long-run).

Staff Recommendation: APPROVE the Governor's proposed trailer bill language and score $2.8 million in revenue to the GF.

VOTE:

Action: Approved as budgeted on a 3-0 vote (Harman absent).

3. Establish Adult Day Health Care Fee (TBL). The Governor proposes TBL to: (1) establish an $85 per day fee to support the new Adult Day Health Care (ADHC) level-of-care that is scheduled to be offered at the Lancaster and Ventura homes beginning in April 2010; and (2) allow the CDVA to adopt rules and regulations to waive a portion of the fee based upon a defined means test. The fee would generate an estimated $22,000 in GF revenue for the budget year.

2009-10 Enacted Budget. This request was withheld without prejudice from the February enacted budget.

Staff Comments. ADHC is a therapeutically oriented out-patient day program that will provide qualified veterans with day-time health maintenance and restorative services for the purposes of maintaining the member's capacity for self-care. Because ADHC services are roughly equivalent to those that would be received in a SNF, the $85 per-day fee was calculated based on the existing $2,500 per-month cap on SNF fees, divided by 30 days. Staff has no concerns with this methodology, although, if the Legislature opts to lift the SNF cap (as proposed in Item #2, above), this could provide a rationale for a higher ADHC fee (either now, or in the future).

Staff Recommendation: APPROVE the trailer bill language establishing the ADHC fee.

Action: Approved as budgeted on a 3-0 vote (Harman absent).

9801 Statewide Issues

The following items were proposed in the Governor's Budget and, because of their far-reaching impact on state government, are tracked by staff as "statewide issues." However, from an administrative standpoint, these proposals primarily involve the DPA and the California Public Employees' Retirement System (CalPERS). Therefore, background on those organizations are provided on pages 3 and 19, respectively.

DISCUSSION ITEMS:

1. Contract for Lower Cost Health Care Coverage (TBL). The Governor proposes TBL to move management of employee and retiree health plans under the Administration. The Governor's Budget scores $180.1 million (including $132.2 million GF) in budget-year savings based on the assumption that "another authorized state entity" (presumably the DPA) could contract for lower cost health care. Currently, the Public Employees' Medical and Hospital Care Act (PEMHCA) vests the California Public Employees' Retirement System (CalPERS) with responsibility for managing PEMHCA health care programs for state workers, state retirees, and employees or retirees of participating local agencies.

2009-10 Enacted Budget. This request was withheld without prejudice from the February enacted budget.

Staff Comments. In scoring $180 million in 2009-10 savings, the Governor's Budget assumed that, effective January 1, 2010, the state could achieve a 10-percent savings in the share that the state pays for its employees and retirees health premiums. While these budget-year savings would be applied to the current fiscal crisis, the Governor's Budget assumed that out-year savings, beginning in 2010-11, would be applied to addressing the state's unfunded retiree health liabilities, which were estimated to be $48 billion in 2007.

Staff notes that, while legislative leaders opted not to adopt the Governor's proposal as part of the package of fiscal solutions enacted this past February, they did commit to hearing the proposal during the spring budget process as part of a gentleperson's agreement. Furthermore, the widening gap between the February revenue assumptions (e.g., April = -$2 billion GF) and the yawning out-year structural deficits facing the state virtually demand that this proposal gain some additional investigation even though the Administration readily admits that reducing health care costs would almost certainly require providing employees/retirees with less generous benefits ("a Chevy instead of a Cadillac").

LAO Comments. In its 2009-10 Budget Analysis, the LAO provided the following comments on the Governor's lower cost health care coverage proposal:

> **Moving Health Plan Administration to Within the Administration Is Worth Considering.** *Our office proposed moving health plan administration from CalPERS to DPA in 1985. At the time, we noted that DPA administered virtually all of the state's employee benefit programs, which is still true. In our Analysis of the 1985-86 Budget Bill, we wrote that "we can find no convincing reason why*

the CalPERS board, an independent entity having no overall responsibility for the negotiation and administration of state employee benefits, should be in charge of this one major benefit." Furthermore, having an independent entity manage health plans means that the state department in charge of coordinating personnel policy has only a token say (the DPA director sits on the CalPERS board) in how these plans structure and offer benefits. In effect, by delegating such vast power to the independent CalPERS board, the Legislature has diminished substantially its ability, through DPA, to direct state personnel health policies and costs. We continue to believe that exploring a move of health benefit programs from CalPERS to DPA makes sense.

Nevertheless, Achieving Large Changes and Cost Savings by January 2010 Is Unlikely. *While we are supportive of the administration's general approach, we are skeptical that a transition of the administration of health plans involving hundreds of thousands of state employees and, perhaps, local employees enrolled in PEMHCA can be achieved within a one-year timeframe. Moreover, the administration assumes huge cost savings that would, by necessity, involve large "cost-shifting" (through increased copayments, deductibles, or similar changes) from the state to employees and retirees. The Governor's proposal offers no meaningful detail on what changes would be implemented in health plans to achieve these considerable savings by January 2010.*

Committee Questions. Based on the comments above, the Subcommittee may wish to ask the following questions:

- What additional details can the Administration provide on how the proposal would be implemented and the targeted savings achieved?
- What, if any impact, does the Administration and the LAO believe this proposal might have on the state's ability to compete for and retain talented employees (particularly if, and when, the economy recovers and the unemployment rate is lower)?
- What challenges or potential obstacles could be posed by moving this responsibility out of CalPERS and into another entity (be it DPA, or another agency)?
- What efforts is CalPERS currently making to hold down the state's share of health care premiums?
- If health care contracting is to remain at CalPERS, what options are available in order to achieve savings of a magnitude similar to those proposed by the Governor?

Staff Recommendation: NO ACTION.

No Action.

2. 25-Year Health Vesting (TBL). The Governor proposes TBL to lengthen the retiree health vesting period for state, California State University, and judicial employees hired beginning on July 1, 2009, to 25 years.

Staff Comments. Currently, most state employees (hired since 1985) receive no state contributions for retiree health benefits until they reach ten or more years of service. These workers receive 50 percent of the maximum state contribution with ten years of service, increasing 5 percent annually until they are eligible to receive 100 percent of the maximum state contribution after 20 or more years of employment. The Governor's proposal would stipulate that future hires "may not receive *any* portion of the employer contribution" for retiree health care "unless he or she is credited with 25 years of state service at the time of retirement."

Similar to Statewide Issues agenda item #1 (above), legislative leaders opted not to adopt this Governor's proposal as part of the package of fiscal solutions enacted this past February; however, hey did commit to hearing the proposal during the spring budget process as part of a gentleperson's agreement. Staff notes that, while the proposal would not produce any immediate budgetary relief to solve the state's immediate fiscal problems, this proposal would substantially reduce the state's contributions to CalPERS for the cost of retiree health benefits over the long term.

LAO Comments. In its 2009-10 Budget Analysis, the LAO indicated the state's contributions to CalPERS to cover the cost of retiree health benefits is one of the fastest-growing budget items, and pointed out that the state's unfunded accrued liability for these benefits was estimated at $48 billion in 2007. Additionally, the LAO provided the following comments:

> **Other Options for the Legislature to Change Retiree Health Vesting.** *We believe that the administration's proposed changes to vesting have merit. Requiring future hires to work for an entire 25-year period before receiving any state contributions for retiree health benefits, however, is a fairly significant change. More modest changes could be enacted as an alternative: for example, allowing workers to receive a reduced benefit after 15 or 20 years of service, with that benefit increasing each subsequent year until the full state contribution is provided after 25 years of service.*

Committee Questions. Based on the above comments, the Subcommittee may wish to ask the following questions:

- Why did the Administration choose a "hard" 25-year vesting period as opposed to a more modest change as suggested by the LAO?
- In terms of order of magnitude, what would the likely out-year benefits of this proposal be, and how might those benefits change (decrease) if the Legislature opted for a more modest approach as suggested by the LAO?
- What, if any impact, does the Administration and the LAO believe this proposal might have on the state's ability to compete for and retain talented employees (particularly if, and when, the economy recovers and the unemployment rate is lower)?

No Action.

1900 California Public Employees' Retirement System

[Note: The following is provided as background on the California Public Employees' Retirement System (CalPERS), given its role in the DPA agenda item "Contract for Lower Cost Health Care Coverage." However, there are no additional items explicitly involving CalPERS.]

CalPERS provides benefits to about 1.1 million active and inactive members and about 476,000 retirees. CalPERS membership is divided approximately in thirds among current and retired employees of the State, schools, and participating public agencies. The Constitution grants the CalPERS Board "plenary authority and fiduciary responsibility for investments of moneys and administration of the system" as specified. CalPERS sets the State's retirement and healthcare contribution levels – consistent with union contracts negotiated by the Governor and approved by the Legislature, and vested benefits. This budget item shows CalPERS benefits and administrative expenditures. State retirement contributions for current employees are built into individual department budgets and Control Section 3.60. State funding for 2009-10 Health and Dental Benefits for Annuitants is contained in Budget Item 9650. The special authority provided to CalPERS by the Constitution does not extend to the component of the Health Benefits Program funded from the Public Employees' Contingency Reserve Fund, and, therefore, CalPERS submits BCPs and Finance Letters to the Legislature for budget changes in those areas.

The CalPERS Board adopted a 2009-10 budget that anticipates benefit and administrative expenditures of $14.9 billion (and 2,184.5 positions)—up $1.2 billion (and down about 18 positions) from 2008-09. Administration is relatively unchanged at $320 million, so this increase is due to increased benefit costs. However, it should be noted that CalPERS also considers mid-year budget revisions which have been substantial in the past—for example, the 2007-08 mid-year revisions increased administrative expenditures by about $31 million and 54 positions. The State's retirement contribution for current employees is estimated at $3.1 billion (including $1.8 billion General Fund) – an increase of about $73 million (including a $13 million General Fund increase) relative to 2008-09. The State's 2009-10 cost for health and dental benefits for annuitants is estimated at $1.3 billion General Fund – an increase of $139 million (12 percent). However, the retiree healthcare cost is adjusted after the enactment of the budget to collect the special fund share through the pro rata process – so the final General Fund cost is actually reduced by about $628 million.

According to the LAO's 2009-10 Budget Analysis, as of January 2009, the CalPERS investment portfolio was about 25 percent below its value at the beginning of 2008-09, and CalPERS actuaries indicated the system was just under 90 percent funded as of their last valuation. These figures are based on the actuarial value of assets methodology that includes some asset smoothing to adjust for short-term fluctuations.

Appendix A – California Department of Veterans Affairs Member Fee Increase Optional Proposals

4/24/09

The following are optional proposals that CDVA considered:

1. Increase the Non-Veteran Spouse (NVS) member fee to a minimum of $1,800 per month. No change to the member fee for veterans.

Level-of-Care	Percent of Income	Cap
DOM	47.5%	$1,200
RCFE	47.5%	$1,200
ICF	65.0%	$2,300
SNF	70.0%	$2,500
NVS	Based on Level-of-Care Minimum	$1,800

Annual Revenue: $1,400,000

2. Increase the member fee for the RCFE level-of-care from 47.5 percent to 55 percent of income up to a maximum of $1,800 per month. No change to other member fees.

Level-of-Care	Percent of Income	Cap
DOM	47.5%	$1,200
RCFE	55.0%	$1,800
ICF	65.0%	$2,300
SNF	70.0%	$2,500
NVS	Based on Level-of-Care	Based on Level-of-Care

Annual Revenue: $183,000

3. Remove monthly member fee caps for all members (including current members). No change to the percent of income calculations.

Level-of-Care	Percent of Income	Cap
DOM	47.5%	No Cap
RCFE	47.5%	No Cap
ICF	65.0%	No Cap
SNF	70.0%	No Cap
NVS	Based on Level-of-Care	No Cap

Annual Revenue: $1,340,000

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4. Establish a new percent of income fee structure with no cap for newly admitted members only. Existing members would be grandfathered in under the existing fee structure. No change to the existing NVS fee structure.

Level-of-Care	Percent of Income	Cap
DOM	65.0%	No Cap
RCFE	75.0%	No Cap
ICF	85.0%	No Cap
SNF	90.0%	No Cap
NVS	Based on Level-of-Care	No Cap

Annual Revenue: $545,000

5. Increase the member fee for the RCFE level-of-care from 47.5 percent to 55 percent of income up to a maximum of $2,180 per month. No change to other member fees.

Level-of-Care	Percent of Income	Cap
DOM	47.5%	$1,200
RCFE	55.0%	$2,180
ICF	65.0%	$2,300
SNF	70.0%	$2,500
NVS	Based on Level-of-Care	Based on Level-of-Care

Annual Revenue: $784,000